Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies	)	WT Docket No. 13-238
	)	
Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting	)	WC Docket No. 11-59
	)	
Amendment of Parts 1 and 17 of the Commission's Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications for Certain Temporary Towers	)	RM-11688 (terminated)
	)	
2012 Biennial Review of Telecommunications Regulations	)	WT Docket No. 13-32

COMMENTS OF SPRINGFIELD, OREGON

These Comments are filed by SPRINGFIELD, Oregon in response to the Notice of Proposed Rule Making (NRPM), released on September 26, 2013, in the above-entitled proceeding.

INTRODUCTION

The City of Springfield is the ninth largest city in the State of Oregon, with an estimated 2012 population of 59,869, according to the Census Bureau. It is located at the southern end of the Willamette Valley, about 100 miles south of the City of Portland and immediately to the east of the City of Eugene, with which we share a boundary. With Eugene, we are the southernmost major city in Oregon on the heavily travelled I-5 corridor, which is the primary route serving

- Addressing certain matters that have arisen regarding implementation of Section 332(c)(7)'s preservation of State and local authority relating to wireless siting.

The rulemaking has the potential to affect significantly the interaction between the wireless industry and State and local governments, and to enhance the wireless industry's ability to quickly deploy new technologies such as distributed antenna systems ("DAS") and small cell locations[1]. While the *NPRM*'s proposals are many and the areas in which it seeks comment are numerous, the comments offered below summarize Springfield's primary concerns.

PROPOSALS TO STREAMLINE ENVIRONMENTAL REVIEW AND HISTORIC PRESERVATION REVIEW

The Commission will consider changes to its rules implementing the environmental review process for wireless siting under National Environmental Policy Act of 1969 ("NEPA") and the historic preservation review procedures under Section 106 of the National Historic Preservation Act ("NHPA"). The *NPRM* proposes, among other things, to include explicit language making it easier to deploy DAS and small cell solutions[2].

NEPA's concern is with the "human environment," (40 CFR 1508.14) defined as including the natural and physical (e.g., built) environment and the relationships of people to that environment. A thorough environmental analysis under NEPA should systematically address the "human" — social and cultural — aspects of the environment as well as those that are more "natural." Visual and social impacts must be part of the NEPA scope of review. Through local regulation, the City of Springfield has sought to balance the desire and need for high quality wireless service with the desire to minimize the visual and other impacts of wireless facilities on

[1] *The FCC Aims to Remove Barriers for Expanding Wireless Infrastructure*; Kelley Drye Client Advisory; October 4, 2013; Kelley Drye & Warren LLP

[2] NRPM Paragraphs 36-52, pages 16-20.

whether they should adopt an exclusion from Section 106 review similar to the exclusion proposed from NEPA review as discussed above[4].

The Commission should not adopt a categorical exclusion or finding that DAS and small cell deployments are exempt from Section 106 of the NHPA without clearly defining which DAS and small cell deployments shall be excluded from review. There is a wide variety of equipment which falls into the category of DAS and small cell facilities. Not all of these facilities would be appropriate in sensitive areas. The focus of these definitions should be on their relative visual impact.

The Commission expressed its concern in the NRPM that defining an exclusion by reference to a specific wireless technology such as "DAS" may be both over-inclusive and under-inclusive. It may be over-inclusive because some facilities associated with the named technology could be larger and more obtrusive than contemplated in the general case and therefore have a greater potential for significant environmental effects. Springfield agrees with the Commission's concern. Future DAS deployments over different spectrum bands may require larger or higher antennas. A definition that relies exclusively on reference to a particular technology may also be under-inclusive in that other technologies that involve comparably unobtrusive wireless facilities may be developed that equally warrant an exclusion, yet would not be covered without further rulemaking.

Existing Buildings and Utility Poles 45 Years and Older

The Commission notes that the general provisions of the Collocation Agreement and the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process ("NPA") already exclude many DAS and small cell facilities from some or

[4] NRPM Paragraph 53, page 20.

duration, height limits, minimal or no excavation, and no lighting) that minimize their potential to cause significant environmental effects. The Commission found that the "the risk that carriers will not be able to meet short-term capacity needs and the resulting detriment to the public if they are required to complete the notification process outweighs the small likelihood that the process will confer any benefit."[7] The Commission believes that making the waiver permanent would remove an administrative obstacle to the availability of broadband and other wireless services during major events and unanticipated periods of localized high demand[8].

Under the waiver, an antenna structure would be exempt from the notification requirements if it:

(i) will be in use for 60 days or less,

(ii) (ii) requires notice of construction to the FAA,

(iii) (iii) does not require marking or lighting pursuant to FAA regulations,

(iv) (iv) will be less than 200 feet in height, and

(v) will involve minimal or no excavation. Springfield has no objection in general to codification of the waiver order as it applies to

[7] NRPM Paragraph 79, page 31.

[8] NRPM, Paragraph 68, page 26.

request the use of a temporary tower six times in one year (60 day permits issued 6 times for a single location). Such temporary permitting could circumvent adopted local wireless siting policies.

Provisions should also be made in federal policy to exempt the use of temporary towers following local disasters and national emergencies without permits during the initial response to such circumstances. Springfield policy allows "Cell on Wheels" (COW), as temporary uses for a period not to exceed 14 days, or during a period of emergency as declared by the City, County, or State (Springfield Development Code 4.3-145 (D)(9)).**PROPOSALS TO CLARIFY THE SPECTRUM ACT**

The *NPRM* proposes to adopt rules to clarify the requirements of Section 6409(a) of the Spectrum Act. That section provides that "a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station,"[9] including requests to "collocate new transmission equipment." The *NPRM* systematically examines the terminology of Section 6409(a) and proposes expansive definitions. Of particular note, the *NPRM* examines what it means to "substantially change the physical dimensions" of a wireless tower or base station which is crux of much of the ambiguity around Section 6409(a). In this context, the *NPRM* cites to the Collocation Agreement's four-prong test to determine whether a collocation will affect a "substantial increase in the size of a tower. Under the four-prong test, a "substantial increase in the size of the tower" occurs if:

1) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with

[9] NRPM Paragraph 101 and 102, page 39.

The shortcomings of the four-prong test are significant when their application is illustrated as shown below.

The historic 50' silos shown above are located in Montgomery County, Maryland. The photo on the left shows how approved six-panel antenna were installed and painted to minimize their visual impact. The photo simulation on the right shows how application of the proposed 4-prong definition of no "significant change" could be lawfully applied. Credit *Photos by: Robert P. Hunnicutt, Columbia Telecommunications Corporation. Commentary on Photos, New Wireless Regulation from the 2012 Middle Class Tax Relief and Job Creation Act; March 2012*

Isotope, a consulting firm with expertise in FCC technical regulations and with assisting municipalities in wireless facility permitting processes, made the following observations concerning Section 6409(a) in a 2012 newsletter, shortly after the passage of the 2012 Middle Class Tax Relief and Job Creation Act. "What if the proposal were to modify a facility by adding to the diameter of a concealed antenna unipole? Despite the FCC's prior use of a 20 foot horizontal extension as a threshold for "substantially change," it would seem out of context when considering a modification to a stealth design. The whole point of a stealth design is to maintain visual inconspicuousness. Adding up to twenty feet to the unipole's width could completely violate the intent of the municipality having required a unipole in the first place." Springfield concurs with the comments made in the newsletter article.

Municipalities are now being told to approve minor changes, however they are ultimately defined. Unfortunately, in protecting modifications to existing facilities, this new law may provoke protective local responses to *new facility* proposals. Planning Commissions hearing applications for new wireless facilities will consider the fact that their approval of a new facility with conditions today may not necessarily lock in those conditions for the future. Any newly approved facility whose future modification meets the threshold of the Jobs Act, could lose those original restrictive conditions. Height limits, dimensional limits, stealth design, prohibition of changes that would require FAA lighting, and other controls on a newly approved facility could be bypassed under the new law, if some interpretations of the law hold true.[11]

Springfield concurs with the position taken by the Intergovernmental Advisory Committee (IAC)[12] in its argument (referenced in the NRPM) that "the question of substantiality . . . cannot be resolved by the adoption of mechanical percentages or numerical rules applicable anywhere and everywhere in the United States, but rather must be evaluated in the context of specific installations and a particular community's land use requirements and decisions."[13] As an example, the IAC suggests that a change in a tower's height of only 5 percent that would "adversely affect substantial safety, esthetic or quality-of-life elements" would represent a substantial change in physical dimensions.[14] The IAC position reinforces Springfield's position that local siting authority and local policy development is needed to avoid the unintended impacts of one size fits all national policy making. The notion of "substantiality," whether applied to size or other impact, must be rooted in local sensibilities

[11] *New Wireless Regulation from the 2012 Middle Class Tax Relief and Job Creation Act*; Isotrope Wireless; March 2012

[12] The Intergovernmental Advisory Committee ("IAC"), formerly known as the Local and State Government Advisory Committee, was created in 1997 to provide guidance to the Commission on issues of importance to state, local and tribal governments, as well as to the Commission.

[13] NRPM, Paragraph 94, pg. 36

[14] Ibid NRPM Paragraph 94

and/or receives electromagnetic waves, including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission or receipt of these signals, including, but not limited to, telecommunications towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition also includes any facility that transmits radio or television signals. This definition does not apply to amateur radio stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules" (Springfield Development Code 4.3-145 E).

The importance of the federal definition of these terms for local jurisdictions is crucial when Section 6409(a) proposes to exempt from local review and require approval of "eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station," including requests to "collocate new transmission equipment." ***State and Local Authority vs. "May Not Deny and Shall Approve"***

The NRPM seeks comment on whether, by directing that States and localities "may not deny and shall approve" covered requests, Section 6409(a) requires States and localities to approve all requests that meet the definition of eligible facilities requests and do not result in a substantial change in the dimensions of the facility, without exception and/or discretionary review.

Springfield objects to the proposed removal of local authority to approve and or condition the approval of new facilities. The discussion and illustrations of the shortcomings of the current definitions of "significant change" demonstrate the need for a local hand in approving facility applications. Local governments must retain the ability to condition their approval on

1. Whether the "substantial increase in size" test for collocations should be interpreted in the same manner for Section 332(c)(7) as under Section 6409(a) for a substantial change in physical dimensions[18];

   Response: The "substantial increase in size test" for collocation found in Section 6409(a) should be suspended in all cases until a better policy is developed. The test should not be used for Section 332(c) (7). The current four-pronged test is deeply flawed.

2. What constitutes a "complete" application under the statute which commences a State or local government's review of an application and starts the timeframe for action on an application[19];

   Response: A "complete" application is one which responds to the submittal requirements of the local jurisdiction in good faith with due diligence and rigor. The applicant cannot be the arbiter of what is needed for a complete application. Oregon statute requires cities to provide applicants with a detailed list of the information needed to make an application complete within 30 days. ORS 227.178 (2) states, *"If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section upon receipt by the governing body or its designee of:*

   (a) All of the missing information;

   (b) Some of the missing information and written notice from the applicant that no other information will be provided; or

[18] *NRPM, Paragraph 152, page 56*
[19] NRPM Paragraph 153, page 56.

remedy circumstances where a city fails to act. Consideration of a "deemed granted" approach to remedying a failure to act within a specified period of time is not needed in Oregon. Any federal remedy should be subordinate to such existing local and state policies. The *2009 Declaratory Ruling* conflicts and interferes with established state and local policy and should be dropped.

5. Whether ordinances establishing preferences for the placement of wireless facilities on municipal properly are unreasonably discriminatory under 47 USC § 332(c)(7)(B)(i)(I); and[22]

Response: Siting policies should both benefit and protect neighborhoods, particularly residential and sensitive commercial districts. Springfield has no ordinances which establish preference for the placement of wireless facilities on municipal property.

6. Whether to reconsider the 2009 *Declaratory Ruling*'s rejection of a "Deemed Granted" remedy and finding that a court should review a State or local jurisdiction's failure to act within a reasonable timeframe on an expedited basis[23].

Response: Oregon allows for the filing of a writ of mandamus with the courts for quasi-judicial land use actions that are not decided within 120 days. ORS 227.179 states *"...if the governing body of a city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.*

[22] NRPM Paragraph 160, page 58.
[23] NRPM, Paragraph 161, page 58.

APPENDIX A

Excerpted Sections
City of Springfield Development Code

4.3-145 Wireless Telecommunications System (WTS) Facilities

A. Purpose. This Section is intended to:

1. Implement the requirements of the Federal Telecommunications Act of 1996;

2. Provide a uniform and comprehensive set of standards and review procedures for the placement, operation, alteration and removal of WTS facilities;

3. Allow new WTS facilities where necessary to provide service coverage and there is a demonstrated need that cannot be met through existing facilities;

4. Maximize the use of existing WTS facilities in order to minimize the need to construct additional facilities;

5. Encourage the siting of new WTS facilities in preferred locations;

6. Lessen impacts of new WTS facilities on surrounding residential areas; and

7. Minimize visual impacts of new WTS facilities through careful design, configuration, screening, and innovative camouflaging techniques.

B. Applicability/Conflicts.

1. Applicability. This Section applies within Springfield's city limits and its Urban Services Area. No WTS facility may be constructed, altered (to include co-locations) or replaced, unless exempt, without complying with the requirements of this Section. Exempt facilities are listed in Subsection D. below.

2. Conflicts. In cases where:

a. The development standards of this Section conflict with other Sections of this Code, these standards will prevail.

EXCEPTION: In the Glenwood Riverfront, the WTS standards regarding type and height of the antenna will apply. All other aspects of the application submittal and review process specified in this Section will apply.

4. Essential public telecommunications services: military, Federal, State, and local government telecommunications facilities.

5. Amateur and citizen band radio transmitters and antennas.

6. Military or civilian radar operating within the regulated frequency ranges for the purpose of defense or aircraft safety.

7. Antennas (including, but not limited to: direct-to-home satellite dishes; TV antennas; and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations.

8. Low-powered networked telecommunications facilities including, but not limited to, microcell radio transceivers located on existing utility poles and light standards within public right-of-way.

9. Cell on Wheels (COW), which are permitted as temporary uses in nonresidential Metro Plan or 2030 Springfield Refinement Plan designations for a period not to exceed 14 days, or during a period of emergency as declared by the City, County, or State.

E. Definitions. The words and phrases used in this Section shall have the following meanings:

Antenna. Any system of wires, poles, rods, reflecting discs or similar devices designed for telephonic, radio, facsimile, data, or television telecommunications through sending and/or receiving of electromagnetic waves when the system is either external to or attached to the exterior of a structure. Antennas include, but are not limited to, devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted up and rotated through a vertical mast or tower interconnecting the boom and antenna support. All of the latter elements are part of the antenna.

Antenna Height. The vertical distance measured from the ground surface at grade to the tip of the highest point of the antenna on the proposed structure.

Antenna Support. Any pole, telescoping mast, tower, tripod or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

Approval Authority.

1. Type I Review. Staff has the authority to approve new co-locations, equipment replacement, and applications for low visibility and stealth WTS facilities.

Low Visibility. The following are examples of low visibility WTS facilities that shall not exceed the height limit of the base zone and shall not increase the height of an existing WTS facility:

1. Whip antennas not exceeding 6 feet in length or height, including mounting, and measuring no more than 3 inches in diameter, located on existing structures including, but not limited to, water storage tanks, high-voltage transmission towers, utility towers and poles, sign standards, and roadway overpasses, with equipment cabinets that are screened from view.

2. Facilities, including equipment cabinets that are screened from view through the use of architectural treatments, including, but not limited to, cupolas, steeples and parapets, and are consistent with existing development on adjacent properties.

3. Additions to existing permitted low-visibility facilities, if the additions themselves meet the definition of low visibility and are designed to minimize visibility the WTS facility.

4. Changes to an existing building that are consistent with the building's architectural style and the equipment cabinets are not visible.

Maintenance. Emergency or routine repairs or replacement of transmitters, antennas, or other components of previously approved WTS facilities that do not create a significant change in visual appearance or visual impact.

Microcells. These devices provide additional coverage and capacity where there are high numbers of users within urban and suburban macrocells. The antennas for microcells are mounted at street level, typically on the external walls of existing structures, lamp-posts, and other street furniture. Microcell antennas are usually smaller than macrocell antennas, and when mounted on existing structures, can often blend into building features. Microcells provide radio coverage over distances, typically between 100 meters and 1,000 meters, and operate at power levels substantially below those of macrocells.

Moderate Visibility. The following WTS facilities are examples of moderate visibility facilities:

1. Panel-shaped antennas not exceeding 8 feet in length or height that are flush-mounted to an existing building façade or other existing structure on at least one edge, or extend a maximum of 24 inches from the building façade or other structure at any edge, do not exceed the height of the building or other structure, and are designed to blend with the color, texture, and design of the existing building or structure, with equipment cabinets that are screened from view.

Telecommunications. The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Tower or WTS Tower. Any mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support antennas.

Whip Antenna. An antenna that transmits or receives signals in 360 degrees. Whip antennas are typically cylindrical in shape, less than 3 inches in diameter and no more than 6 feet long, including the mounting.

Wireless Telecommunications System (WTS) Facility. Any facility that transmits and/or receives electromagnetic waves, including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission or receipt of these signals, including, but not limited to, telecommunications towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition also includes any facility that transmits radio or television signals. This definition does not apply to amateur radio stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules.

F. General Standards. The Federal Telecommunications Act of 1996 establishes limitations on the siting standards that local governments can place on WTS facilities. Section 704 of the Act states that local siting standards shall not:

1) "unreasonably discriminate among providers of functionally equivalent services"

2) "prohibit or have the effect of prohibiting the provision of personal wireless services."

All applications for WTS facilities are subject to the standards in this Section to the extent that they do not violate Federal limitations on local siting standards. Where application of the standards found in this Section constitutes a violation, the least intrusive alternative for providing coverage shall be allowed as an exception to the standards.

1. Design for Co-Location. All new towers shall be designed to structurally accommodate the maximum number of additional users technically practicable.

2. Demonstrated Need for New WTS Facilities. Applications shall demonstrate that the proposed WTS facility is necessary to close a significant gap in service coverage or capacity for the carrier and is the least intrusive means to close the significant gap.

3. Lack of Coverage and Lack of Capacity. The application shall demonstrate that the gap in service cannot be closed by upgrading other existing facilities. In doing so, evidence shall clearly

a. Co-location of additional high visibility facilities is consistent with neighborhood character;

b. The provider has shown that denial of an application for additional high visibility WTS facilities would have the effect of prohibiting service because the proposed facility would fill a significant gap in coverage and no alternative locations are available and technologically feasible; or

c. The provider has shown that denial of an application for additional high visibility WTS facilities would unreasonably discriminate among providers of functionally equivalent services.

7. Separation between Towers. No new WTS tower may be installed closer than 2,000 feet from any existing or proposed tower unless supporting findings can be made under Subsections F.2., 3. and 4. by the Approval Authority.

8. WTS Facilities Adjacent to Residentially Zoned Property. In order to ensure public safety, all towers located on or adjacent to any residential zoning district shall be set back from all residential property lines by a distance at least equal to the height of the facility, including any antennas or other appurtenances. The setback shall be measured from that part of the WTS tower that is closest to the neighboring residentially zoned property.

9. Historic Buildings and Structures. No WTS facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historic register unless a finding is made by the Approval Authority that the proposed facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no high or moderate visibility WTS facilities are permitted on any building or any site within a historic district. Proposed WTS facilities in the Historic Overlay District are also subject to the applicable provisions of Section 3.3-900.

10. Equipment Location. The following location standards shall apply to WTS facilities:

a. No WTS facility shall be located in a front, rear, or side yard building setback in any base zone and no portion of any antenna array shall extend beyond the property lines;

b. Where there is no building, the WTS facility shall be located at least 30 feet from a property line abutting a street;

18. Compliance with Photo Simulations. As a condition of approval and prior to final staff inspection of the WTS facility, the applicant shall submit evidence, e.g., photos, sufficient to prove that the facility is in substantial conformance with photo simulations provided with the initial application. Nonconformance shall require any necessary modification to achieve compliance within 90 days of notifying the applicant.

19. Noise. Noise from any equipment supporting the WTS facility shall comply with the regulations specified in OAR 340-035-0035.

20. Signage. No signs, striping, graphics, or other attention-getting devices are permitted on any WTS facility except for warning and safety signage that shall:

a. Have a surface area of no more than 3 square feet;

b. Be affixed to a fence or equipment cabinet; and

c. Be limited to no more than 2 signs, unless more are required by any other applicable law.

21. Traffic Obstruction. Maintenance vehicles servicing WTS facilities located in the public or private right-of-way shall not park on the traveled way or in a manner that obstructs traffic.

22. Parking. No net loss in required on-site parking spaces shall occur as a result of the installation of any WTS facility.

23. Sidewalks and Pathways. Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land.

24. Lighting. WTS facilities shall not include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Approval Authority shall review any available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, and shall comply with the outdoor lighting standards in Section 4.5-100, unless required by any other applicable law.

25. Landscaping. For WTS facilities with towers that exceed the height limitations of the base zone, at least 1 row of evergreen trees or shrubs, not less than 4 feet high at the time of planting, and spaced out not more than 15 feet apart, shall be provided in the landscape setback. Shrubs shall be of a variety that can be expected to grow to form a continuous hedge at least 5 feet in height within 2 years of planting. Trees and shrubs in the vicinity of guy wires shall be

ii. The service area to be effected by the proposed WTS facility;

iii. The locations of existing WTS tower facilities where co-location is possible within a 5-mile radius of the proposed WTS facility.

c. Co-Location. An engineer's analysis/report of the recommended site location area is required for the proposed WTS facility. If an existing structure approved for co-location is within the area recommended by the engineer's report, reasons for not collocating shall be provided demonstrating at least one of the following deficiencies:

i. The structure is not of sufficient height to meet engineering requirements;

ii. The structure is not of sufficient structural strength to accommodate the WTS facility, or there is a lack of space on all suitable existing towers to locate proposed antennas;

iii. Electromagnetic interference for one or both WTS facilities will result from co-location; or

iv. The radio frequency coverage objective cannot be adequately met.

d. Plot Plan. A plot plan showing: the lease area, antenna structure, height above grade and setback from property lines, equipment shelters and setback from property lines, access, the connection point with the land line system, and all landscape areas intended to screen the WTS facility.

e. RF Emissions. An engineer's statement that the RF emissions at grade, or at nearest habitable space when attached to an existing structure, complies with FCC rules for these emissions; the cumulative RF emissions if co-located. Provide the RF range in megahertz and the wattage output of the equipment.

f. Description of Service. A description of the type of service offered including, but not limited to: voice, data, video and the consumer receiving equipment.

g. Provider Information. Identification of the provider and backhaul provider, if different.

f. Co-Location. In addition to the co-location requirements specified in Subsection G.1.c., the applicant shall submit a statement from an Oregon registered engineer certifying that the proposed WTS facility and tower, as designed and built, will accommodate co-locations, and that the facility complies with the non-ionizing electromagnetic radiation emission standards as specified by the FCC. The applicant shall also submit:

i. A letter stating the applicant's willingness to allow other carriers to co-locate on the proposed facilities wherever technically and economically feasible and aesthetically desirable;

ii. A copy of the original Site Plan for the approved existing WTS facility updated to reflect current and proposed conditions on the site; and

iii. A depiction of the existing WTS facility showing the proposed placement of the co-located antenna and associated equipment. The depiction shall note the height, color and physical arrangement of the antenna and equipment.

g. Lease. If the site is to be leased, a copy of the proposed or existing lease agreement authorizing development and operation of the proposed WTS facility.

h. Legal Access. The applicant shall provide copies of existing or proposed easements, access permits and/or grants of right-of-way necessary to provide lawful access to and from the site to a City street or a State highway.

i. Lighting and Marking. Any proposed lighting and marking of the WTS facility, including any required by the FAA.

j. Utilities. Utility and service lines for proposed WTS facilities shall be placed underground.

k. Alternative Site Analysis. The applicant shall include an analysis of alternative sites and technological design options for the WTS facility within and outside of the City that are capable of meeting the same service objectives as the proposed site with an equivalent or lesser visual or aesthetic impact. If a new tower is proposed, the applicant shall demonstrate the need for a new tower, and why alternative locations and design alternatives, or alternative technologies including, but not limited to microcells and signal repeaters, cannot be used to meet the identified service objectives.

1. Development Issues Meeting. A Development Issues Meeting (DIM) as specified in Subsection 5.1-120A. is required only for high and moderate visibility WTS facility applications. Applicable development standards as specified in Subsection F. and submittal requirements as specified in Subsection G., will be discussed at the DIM.

2. Type I Review Process. The following WTS facilities are allowed with the approval of the Director with applicable building and electrical permits:

a. Stealth and low visibility WTS facilities, as defined in Subsection E., in any zoning district.

b. Façade-mounted antennas or low powered networked telecommunications facilities, e.g., as those employing microcell antennas integrated into the architecture of an existing building in a manner that no change to the architecture is apparent and no part of the WTS facility is visible to public view.

c. Antennas or arrays that are hidden from public view through the use of architectural treatments, e.g., within a cupola, steeple, or parapet which is consistent with the applicable building height limitation.

d. New antennas or arrays including side-mounted antennas and small top-mounted antennas that are attached to an existing broadcast communication facility located in any zone. No more than 3 small top-mounted antennas shall be placed on the top of any one facility without a Type III review.

e. To minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas or arrays on existing towers shall take precedence over the construction of new towers, provided the co-location is accomplished in a manner consistent with the following:

i. An existing tower may be modified or rebuilt to a taller height to accommodate the co-location of additional antennas or arrays, as long as the modified or rebuilt tower will not exceed the height limit of the applicable zoning district. Proposals to increase the height of a tower in a residential zoning district, or within 500 feet of a residential zoning district shall be reviewed under a Type III process. The height change may only occur one time per tower.

ii. An existing tower that is modified or reconstructed to accommodate the co-location of additional antennas or arrays shall

b. By agreement with Lane County, the Hearings Official shall be the Approval Authority for applications outside of the city limits but inside of the Springfield Urban Growth Boundary. The Hearings Official will use the applicable criteria specified in Subsection I. in place of the Discretionary Use criteria in Section 5.9-120 to evaluate the proposal.

I. Approval Criteria.

1. Low Visibility and Stealth WTS Facility Applications. The Director shall approve the low visibility and stealth WTS facility applications upon a determination that the applicable standards specified in Subsection F. and the submittal requirements specified in Subsection G. are met.

2. Moderate and High Visibility WTS Facility Applications. The Approval Authority shall approve moderate visibility and high visibility WTS facility applications upon a determination that the applicable standards specified in Subsection F. and the submittal requirements specified in Subsection G. are met. Through the Discretionary Use review, the Approval Authority shall also determine if there are any impacts of the proposed WTS facility on adjacent properties and on the public that can be mitigated through application of other Springfield Development Code standards or conditions of approval as specified in Subsection J.

J. Conditions of Approval. For Type III applications, the Approval Authority may impose any reasonable conditions deemed necessary to achieve compliance with the approval criteria as allowed by Section 5.9-125.

K. Maintenance. The property owner and the carrier in charge of the WTS facility and tower shall maintain all equipment and structures, landscaping, driveways and mitigating measures as approved. Additionally:

1. All WTS facilities shall maintain compliance with current RF emission standards of the FCC, the National Electric Safety Code, and all State and local regulations.

2. All equipment cabinets shall display a legible operator's contact number for reporting maintenance problems.

L. Inspections.

1. The City shall have the authority to enter onto the property upon which a WTS facility is located to inspect the facility for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City and Federal and State law.